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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,424	12/29/2000	Min Zhu	M-8854 US	7614

7590

03/26/2004

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EXAMINER

COULTER, KENNETH R

ART UNIT

PAPER NUMBER

2141

10

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,424

Applicant(s)

ZHU ET AL.

Examiner

Kenneth R Coulter

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4.9</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 – 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 18 of copending Application No. 09/751,807. Although the conflicting claims are not identical, they are not patentably distinct from each other because both Applications disclose recovery from failed server in a multi-server, multi-client conferencing system.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1 – 18 are rejected under 35 U.S.C. 102(e) as being disclosed by Salesky et al. (U.S. Pat. No. 6,343,313).

4.1 Regarding claim 1, Salesky discloses a computer system for distributed collaborative computing, the system comprising:

a plurality of server computers connected to a plurality of client computers via a global area computer network (Fig. 1; col. 9, lines 1 - 5);

a high-speed direct connection link connecting the plurality of server computers (col. 20, lines 38 – 39; col. 9, lines 1 - 12); and

a computer program executable by the server computers, wherein the computer program comprises computer instructions for:

establishing a connection over the global area network between one of the server computers and one of the client computers (Fig. 1; Fig. 2; Fig. 9C; col. 26, lines 63 – col. 27, line 24);

establishing a communication link between the server computer and one of the other server computers over the high-speed direct connection link (Fig. 1; Fig. 2; Fig. 9C; col. 26, lines 63 – col. 27, line 24);

conducting an online conference among an arbitrary number of client computers connected to an arbitrary number of the server computers (Fig. 1; Fig. 2; Fig. 9C; col. 26, lines 63 – col. 27, line 24).

4.2 Per claim 2, Salesky further discloses sharing an application program executed on one of the client computers on an arbitrary number of other client computers (Fig. 3; col. 26, line 63 – col. 27, line 4).

4.3 Regarding claim 3, Salesky further teaches viewing a document stored on one of the client computers on an arbitrary number of other client computers (col. 26, line 63 – col. 27, line 24; col. 22, line 67 – col. 23, line 20).

4.4 Per claim 4, Salesky teaches:

detecting a failure of one of the server computers handling the online conference (Fig. 9C; col. 26, line 63 – col. 27, line 24);

disconnecting the failed server computer from the online conference (col. 26, line 63 – col. 27, line 24);

connecting another of the server computers to the conference (col. 26, line 63 – col. 27, line 24);

resuming the online conference (col. 26, line 63 – col. 27, line 24).

4.5 Regarding claim 5, Salesky discloses storing the status of the online conference in the database (col. 26, line 63 – col. 27, line 24).

4.6 Per claim 6, Salesky teaches ensuring that a maximum number of authorized conference participants is not exceeded (col. 32, lines 9 - 14).

4.7 Regarding claims 7 – 18, the rejection of claims 1 – 5 under 35 USC 102(e) (paragraphs 4.1 – 4.6 above) applies fully.

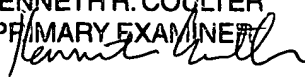
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER



krc